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No. 86-15-22

IN THE SUPREME COURT OF THE
UNITED STATES

October Term, 1986

Andrew Templeman, Appellant

V.

Presbytery of Northern New England,
Appellee

ON APPEAL FROM THE SUPREME COURT
OF NEW HAMPSHIRE

OBJECTION TO APPELLEE'S MOTION TO DISMISS APPEAL

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This case involves a written employment contract between the appellant, Dr. Andrew Templeman, an ordained minister of the Presbyterian Church and the appellee, the Presbytery of Northern New England and the Community Church of New Boston. The appellant contends that the Presbytery violated his written contract by terminating his pastorate. Dr.

Templeman also contends that the Presbytery owed him a duty to properly investigate complaints prior to seeking Dr. Templeman's termination.

The issue before this Court is whether breach of a written employment contract and subsequent tortious conduct by a church body may be resolved on the basis of "neutral principles of law." Jones v. Wolf, 443 U.S. 595, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979). Although the case at bar does not involve a dispute over real property as in Jones v. Wolf, 443 U.S. 595, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979), the employment contract in question is property and the appellant has a property interest in that contract which must be interpreted by utilizing

"neutral principles of law."

By dismissing Dr. Templeman's common law counts and by summarily affirming the lower Court, the New Hampshire Hillsborough County Superior Court and the New Hampshire Supreme Court, respectively, elevated the free exercise clause of the First Amendment to a position wherein civil common law rights must defer to the dictates of the authoritative church. Contrary to the holding in Jones v. Wolf, 443 U.S. 595, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979), the New Hampshire Supreme Court, in effect, impermissibly adopted ". . . a rule of compulsory deference to religious authority in resolving church property disputes . . ." Jones v. Wolf,

443 U.S. at 605, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979).

The Jones v. Wolf, 443 U.S. 595, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979) rationale dictates that the New Hampshire courts must utilize the "neutral principles of law" approach by examining the written contract, hearing evidence regarding its drafting and interpretation, and by examining the conduct of the parties involved.

In the appellant's Writ against the Presbytery, the appellant alleges that the Presbytery acted willfully, wantonly, intentionally, and in bad faith in breaching Dr. Templeman's employment contract. These allegations by Dr. Templeman approach or are

synonymous with "fraud, collusion, or arbitrariness." Based upon these allegations made by the appellant, the trial court must inquire beyond the ecclesiastical rulings of the Presbytery. Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 713, 49 L.Ed. 2d 151, 96 S.Ct. 2372 (1976). Based upon the appellant's pleadings, the trial court is required to hear evidence to determine if the decisions of the Presbytery should be disturbed.

CONCLUSION

Based upon the "neutral principles of law" approach as mandated by Jones v. Wolf, 443 U.S. 595, 61 L.Ed. 2d 775, 99 S.Ct. 3020 (1979), and based upon the

"fraud, collusion, or arbitrariness" exception to ecclesiastical finality as recognized in Serbian Orthodox Diocese v. Milivojevich, 426 U.S. at 713, 49 L.Ed. 2d 151, 96 S.Ct. 2372 (1976), the appellee's motion to dismiss should be denied.

RESPECTFULLY SUBMITTED,

Andrew Templeman,
Appellant
By His Attorney

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Date: May 1, 1987